

Date signed May 20, 2010



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt**

IN RE:	:	
	:	
CC SERVICES, INC.	:	Case No. 04-36488PM
	:	Chapter 7
Debtor	:	
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MEMORANDUM OF DECISION

This bankruptcy case under Chapter 7 was filed November 22, 2004. Shortly afterward, on January 24, 2005, the Trustee filed a Notice of Assets and a request for notice to creditors, and the Clerk issued a Notice of Need to File Proof of Claim Due to Recovery of Assets (Director's Procedural Form 204) that fixed a bar date for the filing of claims at April 25, 2005. Nearly five years later, on March 17 and 18, 2010, the Trustee eventually got around to filing Objections to Proofs of Claim and a status hearing was scheduled thereon for May 19, 2010. The Department of Labor, Licensing and Regulation filed a response to the Trustee's objection to its claim (Claim No. 1), resulting in the Trustee withdrawing her objection to that claim. While no other responses were filed, the court has the duty to examine the merits of the Trustee's objections and to examine the merits of the Trustee's position. *Cf. In re Cunningham*, 246 B.R. 241, 243 (BC Md. 2000). The court has carefully reviewed the file and has reservations regarding the merits of the Trustee's objections. Therefore, the court will continue this matter to June 24, 2010, at 10:30 a.m., so that the Trustee may supplement the record. Should the Trustee require more time to complete her research, the date of the hearing can be easily changed. However, with respect to certain creditors, the court believes that the better action by the Trustee would be to serve them again in the manner suggested herein.

As to each objection, the court observes as follows:

CLAIM NO. 7 - C. Turner Construction, Inc. - The court agrees with the Trustee's analysis that it be allowed as an unsecured claim and not as a priority claim. No basis appears for the assertion of any priority under 11 U.S.C. § 507.

CLAIM NO. 8 - Robert F. Leagan, Mary Leagan & Jeanne C. Kline - The Trustee appears to state that this claim should be allowed as an unsecured claim without priority in the sum \$300,000.00. However, there are two aspects of the Trustee's objection that concern the court. First, the Order entering a default judgment against Debtor in the Circuit Court action is not liquidated. The court directed that the matter be set for hearing on the issues of damages and attorneys' fees, but there is nothing to show that such a hearing took place. Next, the Trustee notes that this claim was secured, but the record does not show if they recovered any money that would reduce their claim, when and if it was liquidated.

CLAIM NO. 12 - A.B.&W Roofing & Sheet Metal Corporation - Trustee's Objection to Claim No. 12 was served upon the claimant, A.B. & W Roofing & Sheet Metal Corporation, in the care of its attorney, "Nick" J. Ferrante, 132 Main Street, Prince Frederick, Maryland 20678. This is not the current address for Mr. Ferrante, who is no longer connected with the law firm of Davis, Upton & Palumbo, LLC, but now operates as Ferrante & Dill, LLC, at P.O. Box 2222, 141 Main Street, Prince Frederick, Maryland 20678. While it is true that due process is satisfied by mailing the Objection and Notice to the name and address specified on the Proof of Claim, *In re Hawthorne*, 326 B.R. 1, 5 (BC D.C. 2005), because of the inordinate delay in serving the Objection, the court will require that the proposed Order submitted by the Trustee contain a provision that the claimant shall have until June 18, 2010, to move for reconsideration of the Order. Notice shall be given to Mr. Ferrante at his current address and to the Registered Agent of A.B. & W Roofing & Sheet Metal Corporation, Donald L. Noble, Esquire, at 9015 Woodyard Road, Clinton, Maryland, 20735.

CLAIM NO. 10 - Choice Home Center, Inc. - For the reasons set forth in the preceding paragraph, the Trustee should take the same action with respect to the claim of Choice Home Center, Inc. and give notice to the claimant at its current address, 1995 Chaneyville Road, Owings, Maryland, 20736, and to its Registered Agent, Glenn A. Walker, at 3445 Lancer Court, Dunkirk, Maryland 20754.

The Trustee urges that Claim No. 10 and Claim No. 12 do not appear to be supported by sufficient documentation. Commercial enterprises should not be required to keep information in

perpetuity that support claims. It seems obvious that such documentation, if truly required by the Trustee to perform her duty to ascertain the merits of the claims, would have been far more accessible by the claimants had the Trustee filed a prompt Objection to their claims. Without getting into a discussion on the application of the doctrine of laches to the Trustee's action, the late objection could well handicap an honest creditor.

CLAIM NO. 13 - Reico Export & Import Corp. t/a Reico Distributors - The Trustee seeks allowance of this Claim as a general unsecured claim and not as a secured claim. The Claim was based upon a judgment lien recorded in the District Court of Maryland for Calvert County, on May 25, 2004. The court is mystified why this lien was not discharged when the Blossom Lane property was sold. Here again, the Trustee notes that this claim was secured, but the record does not show if the claimant recovered any money that would reduce its claim, when and if it was liquidated.

CLAIM NO. 15 - Rosemary Mack - The Trustee objects to this claim as a secured claim and seeks that for it to be allowed in full as an unsecured claim. However, on March 8, 2005, the Trustee filed a Motion for Authority to Sell Property Free and Clear. The April 18, 2005, Settlement Statement filed by the Trustee reflects that Rosemary Mack was paid \$106,677.15 from the settlement proceeds. Her proof of claim was in the sum of \$98,114.15. The court is puzzled why the Trustee seeks the allowance of this Claim in full as an unsecured claim.

The court will enter an order with respect to the claim of C. Turner Construction, Inc. The Trustee shall upload orders with respect to Claim No. 10 and Claim No. 12, in accordance with the court's foregoing instructions.

cc: Debtor's Attorney
 Janet M. Nesse, Trustee, 1150 18th Street, NW, Suite 800, Washington, DC 20036
 C. Turner Construction, Inc., 4650 Honeycove Lane, Prince Frederick, Maryland 20478
 Timothy P. Leahy, Byrd & Byrd, LLC, 14300 Gallant Fox Lane, Suite 120, Bowie, Maryland, 20715
 Choice Home Center, Inc., 1995 Chaneyville Road, Owings, Maryland 20736
 Glenn A. Walker, Resident Agent for Choice Home Center, Inc., 3445 Lancer Court, Dunkirk, Maryland 20754
 A.B.&W. Roofing & Sheet Metal Corp., c/o Nicholas J. Ferrante, P.O. Box 2222, 141 Main Street, Prince Frederick, Maryland 20678
 Donald L. Noble, Esq., Resident Agent for A.B & W. Roofing & Sheet Metal Corp., 9015 Woodyard Road, Clinton, Maryland 20735
 Reico Export & Import Corp., c/o Tracey S. Kissler, Esq., 3905 Railroad Avenue, Suite

200N, Fairfax, VA 22030

Rosemary Mack, c/o Walter B. Palmer, III, 108 Market Street, Denton, Maryland 21629